

**PRIORITY SEND
JS-6**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. EDCV 10-00109 VAP(DTBx)

Date: February 10, 2010

Title: FEDERAL HOME LOAN MORTGAGE CORPORATION -v-
ESTRAISAND DASILVA, et al.

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard Courtroom Deputy	None Present Court Reporter
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ATTORNEYS PRESENT FOR
PLAINTIFFS:

None	None
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ATTORNEYS PRESENT FOR
DEFENDANTS:

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO CALIFORNIA
SUPERIOR COURT, RIVERSIDE COUNTY (IN
CHAMBERS)

On October 28, 2009, Plaintiff Federal Home Loan Mortgage Corporation ("Plaintiff") filed a "Complaint for Unlawful Detainer" against Defendants Estraisand DaSilva and Lee McGhee ("Defendants"). On February 1, 2010, Defendants removed the action to this Court.

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441, *et seq.* The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992), citing Nishimoto v. Federman--

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MINUTE ORDER of February 10, 2010

Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990); see also In re Ford Motor Co./Citibank (South Dakota), N.A., 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.").

Defendants do not specify a basis for this Court's jurisdiction in his Notice of Removal. From the face of the Complaint, Plaintiff's claim is for unlawful detainer, a California state law action. See Franchise Tax Bd. v. Constr. Laborers Trust, 463 U.S. 1, 10 (1983) (defendant may not remove case to federal court unless basis for federal jurisdiction apparent on the face of the complaint). Accordingly, this Court lacks jurisdiction under 28 U.S.C. § 1331.

Furthermore, the Court lacks jurisdiction under 28 U.S.C. § 1332. Defendants do not explain how the amount in controversy in this action — where Plaintiff expressly demands no more than \$10,000 in the Complaint — could reach \$75,000. See 28 U.S.C. § 1332.

Defendants have not met their burden of establishing that the case is properly in federal court. Gaus, 980 F.2d at 566. Accordingly, the Court REMANDS the action to the Superior Court of California, Riverside County.

IT IS SO ORDERED.